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Total Number of Pages in This Submission

24

Application Number

09/750,940

Filing Date

December 29, 2000

First Named Inventor

Hong Cai

Art Unit

2142

Examiner Name

Douglas B. Blair

Attorney Docket Number

JP9-1999-0279US (8728-464)

**ENCLOSURES (Check all that apply)**

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/  
Incomplete ApplicationReply to Missing Parts  
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a  
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



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Request for Refund



CD, Number of CD(s) \_\_\_\_\_

☐ Landscape Table on CD

After Allowance Communication to TC

Appeal Communication to Board  
of Appeals and InterferencesAppeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

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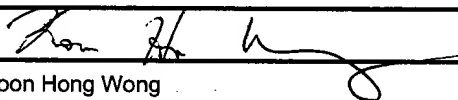
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

F. Chau &amp; Associates, LLC

Signature



Printed name

Koon Hong Wong

Date

May 11, 2005

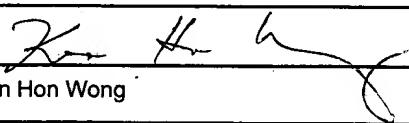
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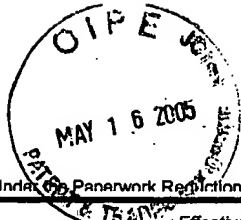
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Date

May 11, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).**FEE TRANSMITTAL**  
**For FY 2005**☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 500.00**Complete if Known**

Application Number	09/750,940
Filing Date	December 29, 2000
First Named Inventor	Hong Cai
Examiner Name	Douglas B. Blair
Art Unit	2142
Attorney Docket No.	JP9-1999-0279US (8728-464)

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):☒ Deposit Account Deposit Account Number: 50-0150 Deposit Account Name: IBM/YORKTOWN HEIGHTS

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

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☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	1,000.00
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

**2. EXCESS CLAIM FEES**

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180

<b>Total Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>	<b>Multiple Dependent Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 20 or HP = x =						
HP = highest number of total claims paid for, if greater than 20						
<b>Indep. Claims</b>	<b>Extra Claims</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>			
- 3 or HP = x =						
HP = highest number of independent claims paid for, if greater than 3						

**3. APPLICATION SIZE FEE**

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

<b>Total Sheets</b>	<b>Extra Sheets</b>	<b>Number of each additional 50 or fraction thereof</b>	<b>Fee (\$)</b>	<b>Fee Paid (\$)</b>
- 100 = / 50 = (round up to a whole number) x =				

**4. OTHER FEE(S)**

Non-English Specification, \$130 fee (no small entity discount)

Other: Appeal Brief

**Fees Paid (\$)**

500.00

**SUBMITTED BY**

Signature		Registration No. (Attorney/Agent)	48,459	Telephone	516-692-8888
Name (Print/Type)	Koon Hon Wong			Date	May 11, 2005

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**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants: Cai et al.

Examiner: D. Blair

Serial No: 09/750,940

Group Art Unit: 2142

Filed: December 29, 2000

Docket: JP-1999-0279US (8728-464)

For: A PLUGGABLE SERVICE DELIVERY PLATFORM

**APPEAL BRIEF**

This is an Appeal from the Final Office Action mailed October 18, 2004 (Paper No. 20041008), finally rejecting claims 1-6, 8 and 9. Applicants appeal pursuant to the Notice of Appeal filed on March 11, 2005 and submit this appeal brief.

05/26/2005 JBALINAN 00000078 500510 09750940

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**Appeal from Group 2142**

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1. **Real Party in Interest**

The real party in interest is INTERNATIONAL BUSINESS MACHINES CORPORATION, the assignee of the entire right, title and interest in and to the subject application by virtue of an assignment of record.

2. **Related Appeals and Interferences**

None.

3. **Status of Claims**

Claims 1-6, 8 and 9 are pending, stand rejected and are under appeal.

A copy of the claims 1-6, 8 and 8 as pending is presented in the Claims Appendix.

4. **Status of Amendments**

The pending claims were not amended after Final Rejection.

5. **Summary of Claimed Subject Matter**

In independent claim 1, a pluggable service delivery platform for supporting many devices requesting many services in an e-business application is provided.

A device-platform interface (p. 2, line 19-p. 3, line 6: "Device Abstraction Layer"; FIG. 1: "DAL"; FIG. 5) is provided. The device-platform interface accepts device requests issued by devices wherein said device requests are in a representation mode which is adapted for the devices (p. 2, lines 20-21). The device-platform interface transforms the device requests into XML requests, and then sends the XML requests to a platform kernel

section via HTTP protocol (p. 2, lines 21-22). The device-platform interface transforms XML responses which are returned by the platform kernel section into the representation mode (p. 2, lines 22-24). The device-platform interface includes a common transcoding section, which transcodes between the representation mode and XML (p. 3, lines 1-3; p. 9, lines 6-14). The device-platform interface further includes a device dependent component (p. 3, lines 4-6). The device dependent component includes device type and transmitting protocol information.

A service-platform interface (p. 3, lines 7-12: "Service Abstraction Layer"; FIG. 1: "SAL"; FIG. 4) is provided. The service-platform interface abstracts service requirements of the services as a common base (p. 3, lines 8-9). The service-platform interface provides an adapter for each of the services based on the service requirements (p. 3, lines 9-10). The adapter transforms between service responses issued by the services and the XML responses (p. 3, lines 10-12).

A platform kernel section (p. 3, lines 13-20; FIG. 1), which manages user information, device information and service information (p. 3, lines 13-16) is provided. The platform kernel section provides a synchronized or an asynchronous service engine (p. 3, line 17). The platform kernel section provides interfaces with modules in the platform kernel section (p. 3, line 18). The platform kernel section transfers the XML requests and the XML responses among the modules and between services and devices (p. 3, lines 19-20).



6. **Grounds of Rejection to be Reviewed on Appeal**

- A. Claims 1-3, 5-6 and 8-9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Hind et al. (U.S. Patent No. 6,585,778) (hereinafter "Hind").
- B. Claims 3-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hind.
- C. The Examiner has requested information under Rule 105.

7. **Argument**

A. **Introduction**

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *See Glaxo Inc. v. Novopharm Ltd.*, 52 F.3d 1043, 1047, 34 USPQ2d 1565, 1567 (Fed. Cir. 1995). In other words, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *See Scripps Clinic & Research Found. v. Genentech Inc.*, 927 F.2d 1565, 1576, 18 USPQ2d 1001, 1010 (Fed. Cir. 1991). An anticipation rejection cannot be predicated on an ambiguous reference. Rather, statements and drawings in a reference relied on to prove anticipation must be so clear and explicit that those skilled in the art will have no difficulty in ascertaining their meaning. *See In re Turlay*, 304 F.2d 893, 899, 134 USPQ 355, 360 (CCPA 1962).

It is respectfully submitted that the Examiner has failed to show that the reference Hind describes each and every limitation in the rejected claims. In particular, the reference

Hind fails to describe. For the reasons set forth below, Appellants respectfully request that the claim rejections under 35 U.S.C. § 102(e) be reversed.

In rejecting claims under 35 U.S.C. § 103, the Examiner bears the burden of presenting a *prima facie* case of obviousness. *In re Rijckaert*, 9 F.3d 1531, 1532 (Fed. Cir. 1993). The burden of presenting a *prima facie* case of obviousness is only satisfied by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. *In re Fine*, 837 F.2d 1071, 1074 (Fed. Cir. 1988). A *prima facie* case of obviousness is established when the teachings of the prior art itself would appear to have suggested the claimed subject matter to one of ordinary skill in the art. *In re Bell*, 991 F.2d 781, 782 (Fed. Cir. 1993). The suggestion to combine the references should come from the prior art, and the Examiner cannot use hindsight gleaned from the invention itself to pick and choose among related disclosures in the prior art to arrive at the claimed invention. *In re Fine*, 837 F.2d at 1075. If the Examiner fails to establish a *prima facie* case, the rejection is improper and must be overturned. *In re Rijckaert*, 9 F.3d at 1532 (citing *In re Fine*, 837 F.2d at 1074).

Under 35 U.S.C. § 103(c), “[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” The instant application and Hind were, at the time the invention was made, subject to an obligation of assignment to International Business Machines Corporation. The Examiner has *improperly* required that

Applicants provide an affidavit to establish 35 U.S.C. § 103(c). No where in the Patent Rules or the MPEP is such an affidavit required. For the reasons set forth below, Appellants respectfully request that the claim rejections under 35 U.S.C. § 103(a) be reversed.

Under 37 C.F.R. 1.105 (hereinafter "Rule 105"), the Examiner may require the submission of such information as may be reasonably necessary to properly examine or treat the matter. The Examiner has required submission of information regarding LISP/6A. Under 37 C.F.R. 1.105(a)(3), "[a]ny reply that states that the information required to be submitted is unknown and/or is not readily available to the party or parties from which it was requested *will be accepted as a complete reply.*" A sufficient reply in accordance with Rule 105 has been provided to the Examiner on *two* separate occasions, yet the Examiner continues to *improperly* request information under Rule 105. Acknowledgement of compliance with the Rule 105 information request is respectfully requested.

**B. Claims 1-3, 5-6 and 8-9 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Hind et al. (U.S. Patent No. 6,585,778) (hereinafter "Hind").**

**(i). Hind fails to disclose "a device-platform interface, for accepting device requests issued by devices" as claimed in claim 1.**

The Examiner incorrectly relies on col. 7, lines 19-50 of Hind as anticipating "a device-platform interface, for accepting *device requests issued by devices* wherein said device requests are *in a representation mode which is adapted for the devices,*" as claimed in claim 1. The recited portion of Hind discloses an intermediary between a client who

requests stored data and the server application which contains the stored data. The intermediary is used to enforce “data policy,” which refers to procedures and rules used to control access to stored data. (Hind, col. 1, lines 13-14). The recited portion of Hind refers to a previous example involving a “Sam” and a “Smith.” Col. 1, line 40 to col. 2, line 8 of Hind discloses in greater detail a user “Sam” requesting contact information from another user “Smith” from an employee directory. That is, Hind discloses a *user* (i.e., “Sam”) requesting information. Nothing in the recited portions of Hind discloses a *device* issuing a request, as essentially claimed in claim 1. This distinction is important because the present invention involves *devices* connecting to a pluggable service delivery platform – *not* a *user* accessing to a server application to retrieve information as disclosed in Hind.

Because Hind does not disclose each and every limitation of claim 1, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claims 1-6 and 8-9 should be reversed.

(ii). **Hind fails to disclose “sending the XML requests to a platform kernel section via HTTP protocol,” as claimed in claim 1.**

The Examiner relies on col. 7, lines 19-50 of Hind as anticipating “*sending the XML requests to a platform kernel section via HTTP protocol*,” as claimed in claim 1. The recited portion of Hind does not even mention the use of HTTP protocol for *any* purpose, much less the use of HTTP protocol for *sending XML requests to a platform kernel section*, as essentially claimed in claim 1. Further, it is entirely unclear to Applicants which part of Hind discloses “a platform kernel section.” The Examiner has provided no arguments to address the deficiencies above, and has not addressed each and every limitation of the claim. As such, Applicants are effectively left to *guess* as to which part of

Hind discloses “*sending the XML requests to a platform kernel section via HTTP protocol,*” as claimed in claim 1. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose the recited limitations of claim 1.

Because Hind does not disclose each and every limitation of claim 1, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claims 1-6 and 8-9 should be reversed.

(iii). **Hind fails to disclose “said device-platform interface comprising a device dependent component, the device dependent component comprising device type and transmitting protocol information,” as claimed in claim 1.**

The Examiner relies on col. 7, lines 19-50 of Hind as anticipating “said device-platform interface comprising a device dependent component, the device dependent component comprising *device type* and *transmitting protocol information,*” as claimed in claim 1. It is entirely unclear to Applicants which part of the Hind discloses the “device-platform interface” or the “device dependent component.” The Examiner fails to address each and every limitation of claim 1. In this rejection, and in the rejections addressed below, the Examiner simply quotes the Applicants’ claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. As such, Applicants are effectively left to *guess* as to which part of Hind discloses “said device-platform interface comprising a device dependent component, the device dependent component comprising *device type* and *transmitting protocol information,*” as claimed in claim 1. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose the recited limitations of claim 1.

Because Hind does not disclose each and every limitation of claim 1, it is respectfully asserted that no *prima facie* case of anticipation has been made out.

Accordingly, the rejection of claims 1-6 and 8-9 should be reversed.

(iv). **Hind fails to disclose “a service-platform interface,” as claimed in claim 1.**

The Examiner relies on col. 8, lines 38-57 of Hind as anticipating “a service-platform interface,” as claimed in claim 1. The recited portion of Hind simply describe style sheets in greater detail. As described in col. 7, lines 19-21, “[Hind] defines a novel technique for *enforcing data policy* in a distributed network computing environment *using style sheet processing*.” Nothing in the recited portion of Hind discloses “abstracting *service requirements* of the *services*,” “providing an adapter for each of the *services* based on the *service requirements*,” and the adaptor for “transforming between *service responses* issued by the *services* and the XML responses,” as essentially claimed in claim 1. Further, the Examiner seems to be overlapping portions of Hind for both the “device-platform interface” and the “service-platform interface” without distinguishing the two.

The Examiner fails to address each and every limitation of claim 1. The Examiner simply quotes the Applicants’ claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose the “service-platform interface,” as claimed in claim 1.

Because Hind does not disclose each and every limitation of claim 1, it is respectfully asserted that no *prima facie* case of anticipation has been made out.

Accordingly, the rejection of claims 1-6 and 8-9 should be reversed.

(v). **Hind fails to disclose “a platform kernel section,” as claimed in claim 1.**

The Examiner relies on col. 8, line 58 to col. 9, line 35 of Hind as anticipating “a platform kernel section,” as claimed in claim 1. The recited portion of Hind does not disclose “managing user information, device information and service information,” “providing one of a synchronized and an asynchronous service engine,” “providing interfaces with modules in the platform kernel section,” and “transferring the XML requests and the XML responses among the modules and between services and devices,” as claimed in claim 1. The Examiner fails to address each and every limitation of claim 1. The Examiner simply quotes the Applicants’ claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose the “platform kernel section,” as claimed in claim 1.

Because Hind does not disclose each and every limitation of claim 1, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claims 1-6 and 8-9 should be reversed.

(vi). **Hind fails to disclose “said platform kernel section further comprises three layers: a run-time layer, an administration layer, and a development layer,” as claimed in claim 2.**

The Examiner relies on col. 9, line 36-col. 10, line 19 of Hind as disclosing the limitations of claim 2. The recited portion of Hind seems *entirely* unrelated to claim 2 whatsoever. Nothing in the recited portion of Hind even *remotely* resembles the three layers, as claimed in claim 2: “a run-time layer, an administration layer, and a development layer; the run-time layer, the administration layer and the development layer are associated

via a platform API; the run-time layer provides on-line information access, the administration layer is responsible for adding and deleting the user information, the device information and the service information, and the development layer provides support to new services and new devices.”

The Examiner fails to address each and every limitation of claim 2. The Examiner simply quotes the Applicants’ claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose “said platform kernel section further comprises three layers: a run-time layer, an administration layer, and a development layer,” as claimed in claim 2.

Because Hind does not disclose each and every limitation of claim 2, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claim 2 should be reversed.

(vii). **Hind fails to disclose “said platform kernel section further comprises: a profile manager, a billing interface, and a platform run-status manager” as claimed in claim 3.**

The Examiner relies on col. 10, lines 5-19 of Hind as disclosing the limitations of claim 3. The recited portion of Hind seems *entirely* unrelated to claim 3 whatsoever. The recited portion of Hind discloses a exemplary data policy to limit access by users to a book’s cost or a book’s quantity in stock. It is entirely unclear to Applicants how the recited portion of Hind is even *remotely* related to “said platform kernel section further comprises: a profile manager, a billing interface, and a platform run-status manager,” as claimed in claim 3.



The Examiner fails to address each and every limitation of claim 3. The Examiner simply quotes the Applicants' claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose "said platform kernel section further comprises: a profile manager, a billing interface, and a platform run-status manager," as claimed in claim 3.

Because Hind does not disclose each and every limitation of claim 3, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claim 3 should be reversed.

(viii). **Hind fails to disclose "said profile manager is used for managing the user information, the service information and the device information" as claimed in claim 5.**

The Examiner relies on col. 10, lines 5-19 of Hind as disclosing the limitations of claim 5. As established in part (B)(vii) above, the Examiner has not shown that Hind anticipates the "profile manager," as claimed in claim 3. It follows then that the Examiner has not shown that Hind discloses "said profile manager is used for managing the user information, the service information and the device information," as claimed in claim 5. Further, the recited portion of Hind seems to be *entirely* unrelated to the limitations of claim 5.

The Examiner fails to address each and every limitation of claim 5. The Examiner simply quotes the Applicants' claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose

“said profile manager is used for managing the user information, the service information and the device information,” as claimed in claim 5.

Because Hind does not disclose each and every limitation of claim 5, it is respectfully asserted that no *prima facie* case of anticipation has been made out.

Accordingly, the rejection of claim 6 should be reversed.

(ix). **Hind fails to disclose “said device-platform interface provides a corresponding gateway for each of the devices” as claimed in claim 6.**

The Examiner relies on col. 7, lines 19-50 of Hind as anticipating “said device-platform interface provides a *corresponding gateway for each of the devices*,” as claimed in claim 6. The details of the recited portion of Hind are provided in the previous sections. As previously noted, Hind is directed to limiting access of information to users; therefore, it naturally follows that Hind is concerned with the *user* type rather than the *device* type. As such, the recited portion of Hind does not disclose *device-specific* gateways.

The Examiner fails to address each and every limitation of claim 6. The Examiner simply quotes the Applicants’ claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose “said device-platform interface provides a *corresponding gateway for each of the devices*,” as claimed in claim 6.

Because Hind does not disclose each and every limitation of claim 6, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claim 6 should be reversed.

- (x). **Hind fails to disclose “upon the platform running, a new kind of device can be incorporated by adding a gateway in the device-platform interface and adding an item in said device information without changing service system at the back-end of the platform,” as claimed in claim 8.**

The Examiner relies on col. 9, line 36-col. 10, line 19 of Hind as disclosing the limitations of claim 8. The recited portion of Hind seems *entirely* unrelated to claim 8 whatsoever. Nothing in the recited portion of Hind even *remotely* resembles “upon the platform running, a new kind of device can be incorporated by adding a gateway in the device-platform interface and adding an item in said device information without changing service system at the back-end of the platform,” as claimed in claim 8.

The Examiner fails to address each and every limitation of claim 8. The Examiner simply quotes the Applicants’ claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose “upon the platform running, a new kind of device can be incorporated by adding a gateway in the device-platform interface and adding an item in said device information without changing service system at the back-end of the platform,” as claimed in claim 8.

Because Hind does not disclose each and every limitation of claim 8, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claim 8 should be reversed.

- (xi). **Hind fails to disclose “upon the platform running, a new kind of service can be incorporated by adding an adapter in the service-platform interface and adding an item in said service information without modifying the programs at the front-end of the platform,” as claimed in claim 9.**

The Examiner relies on col. 9, line 36-col. 10, line 19 of Hind as disclosing the limitations of claim 8. The recited portion of Hind seems *entirely* unrelated to claim 9, whatsoever. Nothing in the recited portion of Hind even *remotely* resembles “upon the platform running, a new kind of service can be incorporated by adding an adapter in the service-platform interface and adding an item in said service information without modifying the programs at the front-end of the platform,” as claimed in claim 9.

The Examiner fails to address each and every limitation of claim 9. The Examiner simply quotes the Applicants’ claim language and provides a generic citation to the prior art without explaining any correlation between the claim language and the prior art. This is clearly improper. In any case, Applicants respectfully submit that Hind does not disclose “upon the platform running, a new kind of service can be incorporated by adding an adapter in the service-platform interface and adding an item in said service information without modifying the programs at the front-end of the platform,” as claimed in claim 9.

Because Hind does not disclose each and every limitation of claim 9, it is respectfully asserted that no *prima facie* case of anticipation has been made out. Accordingly, the rejection of claim 9 should be reversed.

C. Claims 3-5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Hind.

- (i). Hind and the claimed invention were, at the time the invention was made, subject to an obligation of assignment to International Business Machines Corporation.

Under 35 U.S.C. § 103(c), “[s]ubject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.” The instant application and Hind were, at the time the invention was made, subject to an obligation of assignment to International Business Machines Corporation.

The Examiner has *improperly* required that Applicants provide an affidavit to establish 35 U.S.C. § 103(c). According to MPEP § 706.02(l)(2), “[a]pplications and references (whether patents, patent applications, patent application publications, etc.) will be considered by the examiner to be owned by, or subject to an obligation of assignment to the same person, at the time the invention was made, *if the applicant(s) or an attorney or agent of record makes a statement to the effect that the application and the reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person.*” No where in the Patent Rules or the MPEP is an affidavit required. Accordingly, the rejection of claims 3-5 should be reversed.

- (ii). **The combination of Hind and Office Notice fails to teach or suggest “said one of a synchronized and an asynchronized service engine provides synchronized requests based on a session and asynchronized requests based on a queue,” as claimed in claim 4.**

Official Notice is intended for facts which are common knowledge or capable of unquestionable demonstration. *See In re Knapp-Monarch Co.*, 296 F.2d 230, 232, 132 USPQ 6, 8 (CCPA 1961). *See also In re Cofer*, 354 F.2d 664, 668, 148 USPQ 268, 271-72 (CCPA 1966). If the applicants challenge that a factual assertion is not properly officially noticed or not properly based upon common knowledge, the Examiner must support the finding with adequate evidence. *See* MPEP § 2144.03(C).

The Examiner took Official Notice of a portion of claim 4, arguing that a queue is well-known. However, this reading of claim 4 ignores the claim *as a whole*. The Examiner cannot simply parse the claim as he or she so chooses and view each part in a vacuum. Claim 4 claims, *inter alia*, “*wherein said one of a synchronized and an asynchronized engine provides...asynchronized requests based on a queue.*” Claim 4 does not claim simply a queue (in a vacuum) as the Office Action apparently asserts. Applicants respectfully submit that “*wherein said one of a synchronized and an asynchronized engine provides...asynchronized requests based on a queue*” is *not* well-known, and is not properly based upon common knowledge. Further, the Examiner did not provide any evidentiary support in response to the Applicants’ challenge in Applicants’ Response to the Final Office Action mailed on December 20, 2004. It should also be noted that the Examiner does not address, nor does Hind teach or suggest, “synchronized requests” or “asynchronized requests.” Accordingly, the rejection of claim 4 should be reversed.

**D. Applicants have fully complied with the requirements of Rule 105.**

Under 37 C.F.R. 1.105 (hereinafter "Rule 105"), the Examiner may require the submission of such information as may be reasonably necessary to properly examine or treat the matter. The Examiner has required submission of information regarding LISP/6A. Under 37 C.F.R. 1.105(a)(3), "[a]ny reply that states that the information required to be submitted is unknown and/or is not readily available to the party or parties from which it was requested *will be accepted as a complete reply*." A sufficient reply in accordance with Rule 105 has been provided to the Examiner on *two* separate occasions (Amendment mailed on July 1, 2004, and Response to the Final Office Action mailed on December 20, 2004), yet the Examiner continues to *improperly* request information under Rule 105. All parties, as requested by the Examiner, have submitted all information known and/or readily available regarding LISP/6A.

The Examiner further contends in the Advisory Action (Paper No. 20040207) that "[a]ll parts of the specification referring to LISP/6A are indefinite because there (sic) are referring to a term which is unknown." The Examiner seems to substituting his or her own lack of knowledge of the product as that of one of ordinary skill in the art. Simply because the Examiner does not have knowledge of the product does not mean one skilled in the art will not have knowledge of the product. In any case, a sufficient description of LISP/6A for one skilled in the art was originally provided in the chart on Table 1 on page 5 of the instant application.

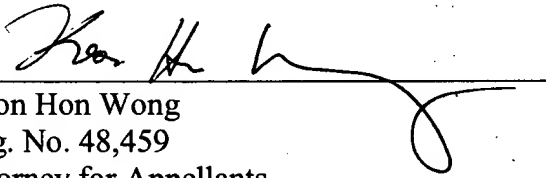
Accordingly, acknowledgement of compliance with the Rule 105 information request is respectfully requested.

### **E. CONCLUSION**

Each and every element of the claimed invention is not described by the teachings of the applied prior art reference. The Examiner has failed to establish a *prima facie* case of anticipation of the presently claimed invention under 35 U.S.C. § 102(e) over Hind for at least the reasons noted above. The Examiner has failed to establish a *prima facie* case of obviousness of the presently claimed invention under 35 U.S.C. § 103(a) over Hind for at least the reasons noted above. The Examiner has incorrectly failed to acknowledge compliance with Rule 105. Accordingly, it is respectfully requested that the Board reverse the rejection of claims 1-6, 8 and 9 under 35 U.S.C. § 102(e) and 35 U.S.C. § 103(a).

Respectfully submitted,

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## **Claims Appendix**

1. A pluggable service delivery platform for supporting many devices requesting many services in an e-business application, comprising:

a device-platform interface, for accepting device requests issued by devices wherein said device requests are in a representation mode which is adapted for the devices, transforming the device requests into XML requests and then sending the XML requests to a platform kernel section via HTTP protocol, and transforming XML responses which are returned by the platform kernel section into the representation mode, said device-platform interface comprising: (1) a common transcoding section, for transcoding between the representation mode and XML; and (2) a device dependent component, the device dependent component comprising device type and transmitting protocol information;

a service-platform interface, for abstracting service requirements of the services as a common base, providing an adapter for each of the services based on the service requirements, the adapter for transforming between service responses issued by the services and the XML responses; and

a platform kernel section, for managing user information, device information and service information, providing one of a synchronized and an asynchronous service engine, providing interfaces with modules in the platform kernel section, and transferring the XML requests and the XML responses among the modules and between services and devices.

2. A pluggable service delivery platform according to claim 1, wherein said platform kernel section further comprises three layers: a run-time layer, an administration layer, and a development layer; the run-time layer, the administration layer and the

development layer are associated via a platform API; the run-time layer provides on-line information access, the administration layer is responsible for adding and deleting the user information, the device information and the service information, and the development layer provides support to new services and new devices.

3. A pluggable service delivery platform according to claim 1, wherein said platform kernel section further comprises: a profile manager, a billing interface, and a platform run-status manager.

4. A pluggable service delivery platform according to claim 1, wherein said one of a synchronized and an asynchronized service engine provides synchronized requests based on a session and asynchronized requests based on a queue.

5. A pluggable service delivery platform according to claim 3, wherein said profile manager is used for managing the user information, the service information and the device information.

6. A pluggable service delivery platform according to claim 1, wherein said device-platform interface provides a corresponding gateway for each of the devices, for transforming the XML response into a file format which is adapted for the devices and transforming among communication protocols based on script languages of the devices stored in said device information.

7. (Cancelled).

8. A pluggable service delivery platform according to claim 1, wherein upon the platform running, a new kind of device can be incorporated by adding a gateway in the device-platform interface and adding an item in said device information without changing service system at the back-end of the platform.

9. A pluggable service delivery platform according to claim 1, wherein upon the platform running, a new kind of service can be incorporated by adding an adapter in the service-platform interface and adding an item in said service information without modifying the programs at the front-end of the platform.

**Evidence Appendix**

None

**Related Proceedings Appendix**

None